

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR PUBLIC UTILITIES COMMISSION

In the Matter of the Applications for
a Route Permit and Certificate of Need
for the 115kV Savanna Rebuild Project

SUMMARY OF PUBLIC TESTIMONY

This matter began on December 29, 2010, when the applicants, Great River Energy ("GRE") and Minnesota Power ("MP")(collectively the "Applicants") filed a written notice with the Minnesota Public Utilities Commission ("Commission" or "MPUC") of their intent to submit an application for a combined Certificate of Need and Route Permit for the Savanna 115kV Transmission Project ("Project"). The Applicants sought to have their application processed under the alternative permitting processes of Minn. R. 7850.2800 to 7850.3900. On February 10, 2011, the Applicants filed their combined application with the Commission.

On October 21, 2011, the Office of Energy Security ("OES") of the Department of Commerce ("Department") issued a Notice of Public Hearing and Availability of Environment Assessment. On November 15, 2011, Administrative Law Judge Bruce H. Johnson ("ALJ") conducted two public hearings on the Project, at 2:00 p.m. and 6:00 p.m. at the Fine Lakes Township Hall, 3726 Prairie Lake Road, in Wright, Minnesota. Approximately eighteen members of the public attended those public hearings. The ALJ provided those members of the public an opportunity to present their views regarding the need for and proposed routing of the project. The period for written comment and the OAH hearing record closed on November 29, 2011.

Description of the Project

Starting from the south end of the line, the Applicants propose to rebuild an existing Great River Energy 69 kV transmission line into new 115kV transmission line extending northward from GRE's Cromwell Substation, located approximately six miles south of the City of Cromwell. The rebuilt line would follow a route 37 miles long and 300 feet wide and terminate at a new Minnesota Power Savanna Switching Station in Van Buren Township northeast of the City of Floodwood.

The first segment of the Project would involve adding a new 115kV circuit to approximately 21 miles of the existing 69 kV transmission line between the Cromwell Substation in Kalevala Township and Lake Country Power's Gowan Substation in Floodwood Township. This portion of the Project would be constructed along the

alignment of the existing 69 kV line, although a 15-foot offset from existing poles may be required in some areas. This double circuit segment of the line would cross the St. Louis River twice, north of Gowan and north of Floodwood in the same locations where the existing 69kV line now crosses the river.

From the Gowan Substation, the second segment of the Project would involve replacing the existing 69 kV line with a new, single circuit 115 kV line for a distance of approximately 9 miles north to a proposed new Savanna Switching Station in Van Buren Township. This new 115kV line would follow the alignment of the 69kV line that it would be replacing.

From the proposed Savanna Switching Station, the third segment of the Project would again replace the existing 69 kV line with a new 115 kV line for an additional distance of approximately seven miles to Lake Country Power's existing Cedar Valley Substation in Cedar Valley Township. This segment of the line would also follow the alignment of the existing 69kV line. However, to maintain service to customers, it would be necessary to keep the existing 69 kV line energized while the replacement 115 kV line is being constructed. As currently proposed, an approximately 15-foot offset from existing pole locations may be necessary in this segment in order to keep the existing line energized during construction.

Many of the easements for the existing 69kV line were obtained in the 1950's and many may never have been recorded. In the event that a route permit is issued, Great River Energy will begin negotiating with all affected landowners to obtain updated easements for existing right of way and for easements on any new right-of-way that may be needed.

PROCEDURAL HISTORY

1. On September 8, 2010, the Applicants filed a Petition for Exemptions from certain Certificate of Need requirements for the Project.¹

2. On November 2, 2010, the Commission issued an Order allowing the exemptions that the Applicants had proposed.²

3. On December 29, 2010, the Applicants filed a written notice of their intent to submit a combined application for a Certificate of Need and a Route Permit for the Project. They are seeking a Certificate of Need because the proposed transmission line capacity, as rebuilt, would be greater than 100kV and would be 10 or more miles long.³

¹ Petition for Exemptions (September 8, 2010).

(<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?DocNumber=20109-54229-01>).

² Order Allowing Exemptions (November 2, 2010).

(<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?DocNumber=201011-56126-01>).

³ Exhibit ("Ex.") 1.

4. On February 10, 2011, the Applicants filed that combined application with the Commission.⁴

5. On March 23, 2011, the Office of Energy Security (OES) recommended that the Commission accept the Applicants' application (HVTL) with the understanding that they would provide OES with any additional information necessary to process the application.⁵

6. On April 4, 2011, the Commission accepted the Applicants' Route Permit application as being substantially complete and authorized the OES to process the application under the alternative review process set forth in Minn. R. 7850.2800 to 7850.3900.⁶

7. On April 13, 2011, the Commission accepted the Applicants' Certificate of Need application as being substantially complete. The Commission's order also directed use of the informal review process to develop the record and directed the Office of Administrative Hearings to conduct at least one public hearing on the Project.⁷

8. On June 15, 2011, the Commissioner of Commerce issued a scoping decision that defined the matters to be considered in the Department's Environmental Assessment of the Project.⁸ Among other things, the scoping decision provided that any route or substation alternatives not specifically identified in the scoping decision would not be considered or evaluated in the Environmental Assessment.⁹

9. On October 21, 2011, the Department filed its Environmental Assessment of the Project.¹⁰

HEARING NOTICE AND PUBLIC COMMENT PROCESS

10. On October 21, 2011, the Department also issued a Notice of Public Hearing giving advance notice of the public hearings to persons on the service list. Those public hearings were scheduled for 2:00 p.m. and 6:00 p.m. at the Fine Lakes Township Hall, 3726 Prairie Lake Road, in Wright, Minnesota.

⁴ Ex. 2.

⁵ Ex. 4.

⁶ Order Accepting Route Permit Application.

(<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?DocNumber=20114-60938-01>).

⁷ Order Accepting Certificate of Need Application.

(<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?DocNumber=20114-61244-01>).

⁸ Ex. 10.

⁹ Ex. 11.

¹⁰ Ex. 12.

11. On November 6, the Notice of Public Hearing was published in the *Duluth News Tribune*.¹¹

12. On November 15, 2011, the ALJ conducted the two scheduled public hearings, which were attended by approximately eighteen members of the public. After those hearing were completed, the record remained open for written comments by interested persons until the close of business on November 29, 2010. The ALJ received five written comments by the deadline.

13. The Commission will issue an order on the Applicants' applications for a route permit and a CON after examining this Summary, the hearing transcripts, all written filings submitted by the public and all filings and argument submitted by the Applicants, the Minnesota Department of Commerce, and other persons and entities interested in this matter.

SUMMARY OF PRESENTATIONS

Bill Storm, Permit Facility Manager, with the OES's Energy Facility Permitting Unit provided information at the public hearing about the OES's responsibility for conducting and processing route permit applications and about the steps that had previously been completed. One of those steps was preparation by the OES of an Environmental Assessment.¹² The Environmental Assessment is a general document discussing the potential human and environmental impacts of the Project, as proposed, along with alternatives to the Project and its planned route. The Department also assessed possible mitigation of adverse impacts that might occur.

Bret Eknes, a staff representative of the Minnesota Public Utilities Commission, discussed the Commission's role as the final decision maker on the Route Permit and the Certificate of Need.

Michelle Lommel, Senior Field Representative with Great River Energy's Land Rights Department, provided background about the Project. She indicated that the rebuilt 115 kV transmission line would serve a number of purposes. First, it would address low voltage concerns in the area. Second, because the existing 69 kV system was built in the 1950s, it had reached the end of its useful life. Third, the Project would correct the lack of redundancy with the 115 kV systems that currently serve in the area. Finally, she described the specific changes that would be made along the various segments of the proposed route.

¹¹ Affidavit of Publication.

(<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?DocNumber=201112-69037-01>). A timely Notice of Public Hearing was also published in the Cloquet Pine Journal.

¹² Ex. 11.

SUMMARY OF PUBLIC COMMENT

Goodell Alternative Route Segment

Nate Goodell owns property located along the south side of Hingeley Road (County Road 86). The right-of-way for the existing 69 kV line crosses the portion of Mr. Goodell's property that abuts the south side of Hingeley Road.¹³ Lake County Power also maintains a distribution line that parallels the existing 69 kV line and is located approximately 50 feet north of the existing 69 kV line.¹⁴

The Applicants' current proposal is to rebuild the 69 kV line within the right-of-way into a double circuited 115/69 kV line. Lake County Power's parallel distribution line would remain in place. Mr. Goodell has proposed a route segment alternative ("Goodell Alternative") that would involve relocating the double circuited 115/69 kV line to the north side of Hingeley Road where it would only affect undeveloped forest land and would no longer directly affect his or other owners' private property. If his alternative were to be given favorable consideration, Mr. Goodell also requested that consideration be given to relocating Lake County Power's distribution line to the north side of Hingeley Road as an underbuild on the proposed double circuited 115/69 kV line.

The Department addressed and evaluated the Goodell Alternative in its Environmental Assessment.¹⁵ The reason why Mr. Goodell is recommending his alternative is to reduce the Project's impact on developed residential properties along this segment of the Project. As currently proposed, the Project will affect four privately-owned parcels, two of which are developed. Another adverse impact that Mr. Goodell believes the current proposal will have is interference with a wildlife habitat management plan that he has developed in cooperation with the U. S. Department of Agriculture's Natural Resource Conservation Service ("NRCS"). Jose Sanchez then inquired whether the plan was also being funded by the NRCS. Mr. Goodell indicated that although the NRCS helped draft his plan, he was managing the plan himself. Mr. Goodell also indicated that the route segment, as currently proposed, would adversely affect what he believes to be wetland areas on his property.¹⁶ Finally, Mr. Goodell stated that he and a neighbor had encountered difficulties in moving farm machinery around the poles of the existing line.

The Environmental Assessment indicated that the Goodell Alternative would impact five parcels on the north side of Hingeley Road that are not currently affected by any transmission line. Four of those parcels are forest land owned by Potlach Corporation, and one is an undeveloped parcel that is privately owned.¹⁷ The Department and the Applicants noted that Lake County Power's parallel distribution line

¹³ Transcript ("Tr.") Vol. 1, pp. 50-59, and Vol. 2, pp. 48-51; see also Ex. 11, pp. 27, 70-72 and Appendix ("App.") C, Goodell Alternative Route Segment Maps 01 and 02.

¹⁴ *Id.*; See also Ex. 18.

¹⁵ See Ex. 11, p. 27 and App. A, pp. 4-5.

¹⁶ See Ex. 19.

¹⁷ Ex. 11, App. A, p. 5.

on the south side of Hingeley Road is relatively new, and there is also no current need to relocate it. Additionally, the Applicants expressed concern that building a line with all three circuits would not provide them with a system as safe as they would prefer. Finally, Great River Energy offered to consider moving the rebuilt double circuit line northward approximately 20 to 25 feet closer to Lake Country Power's distribution line in order to reduce the overall impact on Mr. Goodell's property and other private properties.

Lund Alternative Route Segment

As previously noted, the Project would involve replacing the existing 69 kV line with a new 115 kV line for a distance of approximately seven miles from the proposed Savanna Switching Station to the existing Cedar Valley Substation.¹⁸ In so doing, it would be necessary to keep the existing 69 kV line energized while the replacement 115 kV line is being constructed in order to maintain current service. Although this segment would generally follow the alignment of the existing 69kV line, a 15 to 20-foot offset from existing pole locations would be necessary in this segment in order to keep the existing line energized. The Lund family owns four forty-acre parcels along a 2.5 mile portion of this line segment. That property is located along the west side of Stremel Road (CR 192) as it extends from the proposed Savanna Switching Station north to Parantala Road (CR 732). The existing 69 kV line's right-of-way and poles lie along the west side of the road and on the Lund property, and that is one of the segments where the Applicants are proposing a pole offset in order to keep the 69 kV line energized.

Lund family members previously established a memorial site within a tamarack forest on their property to honor a deceased family member. The memorial site is situated close to, but not within, the existing right-of-way. The family members are concerned that the pole offset along their segment of the rebuilt line will result in additional clearing and will disturb the memorial site.¹⁹ The Lund family has also planted a large number of white pines in the general area, which they believe will also be adversely impacted by the pole offset. Finally, they are concerned about potential EMF hazards associated with the new HVTL. To address their concerns, the Lund family is proposing that the line right-of-way be relocated from its current location along the west side of Stremel Road to the road's east side, as the line extends from the proposed Savanna Switching Station to Parantala Road ("Lund Alternative").²⁰ As an alternative to relocating the line, the Lund family also asked that the Applicants consider constructing the new 115 kV line on the existing poles while the 69 kV line was energized.²¹

¹⁸ Ex. 11, Figure ("Fig.") 2.

¹⁹ *Id.* at 73; Ex. 40.

²⁰ Ex. 11, pp. 27-28, 72-73 and App. C, Lund Alternative Route Maps 01-03.

²¹ Ex. 11 at p. 75.

The Applicants indicated that performing “hot work”—that is, building the 115 kV line on the existing poles while the 69 kV line is energized—poses serious safety hazards. They further indicated that, as proposed, there would still be some buffer between the Lund family memorial and the cleared area.²² Finally, the Applicants have indicated that establishing a new right-of-way on the east side of Stremel Road would require obtaining right-of-way easement from several additional private landowners and would therefore increase the Project’s cost.

Cedar Valley-Savanna Alternative Route Segment

In order to avoid construction work along the energized portion of the 69 kV line, the OES considered and assessed an alternative route from the proposed Savanna Substation to Cedar Valley Substation (Cedar Valley-Savanna Alternative). This alternative would follow Minnesota Power’s existing 115kV line east-northeast out of the proposed Savannah Substation approximately one mile to where that line crosses the existing Minnesota Power 230 kV 98 transmission line.²³ The new 115 kV line would then parallel the MP 230 kV 98 line for approximately six miles and tie into the Cedar Valley Substation.²⁴ Robert Johnston and Bob Rahja both expressed concern about the Cedar Valley-Savanna Alternative, stating that the Project would then directly impact property which they owned that is currently unaffected by the Project. In response, Mr. Storm conceded that if the Cedar Valley-Savanna Alternative were implemented, the Project would no longer involve simply rebuilding an existing line segment but would then involve constructing an entirely new segment along a new route. He also indicated that, among other things, the Applicants would have to negotiate and obtain new easements on several additional parcels of land, and that the Cedar Valley-Savanna Alternative would likely be extremely expensive.

Proposed Marlow Alternative

Although not previously discussed in the Department’s scoping decision and the Environmental Assessment, the Applicants and the OES both agreed that it was appropriate to include relevant information on a fourth alternative route segment (“Marlow Alternative”) in the hearing record.

As proposed, the route would follow the existing 69 kV right-of-way along the west side of Hingeley Road, from its intersection with County Road 8²⁵ southward toward the St. Louis River. This portion of Hingeley Road (“Hingeley Segment”) actually ends at a turnabout just north of the river.²⁶ The Hingeley Segment is located in the portion of the proposed route on which the Applicants propose to replace the existing 69 kV line with a new 115 kV line. Roy Marlow, the Marlow Trust, and the Marlow Estate own most of

²² See Ex. 11, p. 72 and Fig. 9.

²³ Ex. 11, pp. 28, 76-79 and App. C, Cedar Valley-Savanna Alternative Route Maps 01-10.

²⁴ Ex. 11, pp. 28, 76-77.

²⁵ At Pole 358 on Ex. 11, App. C, Map 31, and Ex. 17.

²⁶ At Pole 301 on Ex. 11, App. C, Map 27 and Ex. 17. The Hingeley Segment is therefore the route segment from Pole 358 to Pole 301.

the property along the west side of the Hingeley Segment where the existing 69 kV line is currently located. Mr. Marlow attended the public meetings on behalf of the Marlow Trust, the Marlow Estate, and himself and proposed the Marlow Alternative.²⁷

While the Project was in its planning stages, Mr. Marlow met with representatives of GRE and proposed that the Hingeley Segment of the proposed 115 kV line be relocated from the west side of Hingeley Road to the east side. The existing 69kV line is on the western edge of Hingeley Road's 66-foot right-of-way and is very close to the paved surface of the road. Mr. Marlow stated that much of the property adjacent to the nearby City of Floodwood lies within a flood zone, while the private property along west side of Hingeley Road is 125 feet above flood level. Consequently, Mr. Marlow believes that the property along the west side of Hingeley Road has significant potential for future residential development. He also believes that rebuilding the proposed 115 kV line along the route of the existing 69 kV line would interfere with the possibility of widening Hingeley Road's right-of-way to 85 or 100 feet and would otherwise impede future development of the privately-owned parcels along the west side of Hingeley Road. Mr. Harlow noted that most of the property along the east side of Hingeley Road is publicly owned and has little potential for future development.

Jeff Kletscher, the Mayor of Floodwood, also attended the hearings. While supporting the Project as a necessary step to ensure that the City of Floodwood continues to have an ample and reliable supply of electrical power, Mr. Kletscher agreed with Mr. Marlow view that the public would be better served by relocating the new 115 kV line onto public land on the east side of Hingeley Road rather than on developable private land along Hingeley Road's west side.²⁸

John Sederinski is the local highway foreman for St. Louis County ("County") and his responsibilities include maintaining Hingeley Road. Mr. Sederinski stated that the current location of poles located along the west side of Hingeley Road have hindered the County's road maintenance. This property is adjacent to a creek, and there are several cut banks in the area. Many existing poles are located in cut banks, and the County has not been able to clean and maintain the ditches adjacent to the road because removing material might cause poles to fall over. Mr. Sederinski therefore supports relocating the 115 kV line to the east side of Hingeley Road and as far from the road as possible.²⁹ Additionally, in post-hearing comments³⁰ the County stated that it was open to the option of utilizing tax forfeited land located across Hingeley Road and to the east of the proposed route as an alternative route for the 115 kV line. The County further stated that such an opportunity was consistent with its history of offering public lands for the routing of new and upgraded power utilities in the region.

²⁷ Tr. Vol. I, pp. 59, 70-119.

²⁸ Tr. Vol. 1, pp. 70-73.

²⁹ Tr. Vol. 1, pp. 60-67.

³⁰ Ex. 41.

Doug Bailey is a logger who has conducted logging on the publicly-owned parcels along the east side of Hingeley Road. He offered to conduct, at no cost, any additional logging on those parcels that might be necessary to relocate the 115 kV line there.³¹

Ms. Lommel indicated that the Applicants were neutral about whether to allow the line to remain on the west side of Hingeley Road or whether to relocate it on the publicly-owned parcels on the east side. She further stated that the Applicants had examined the environmental aspects of relocating the line to the east side of Hingeley Road and had concluded that there were no appreciable differences.³² At the request of the OES, the Applicants agreed to submit along with their post-hearing comments a comparison table and map segments depicting a Marlow Alternative similar to those which had been included in the Environmental Assessment for other alternative route segments. Thereafter, Applicants submitted a Marlow Alternative Comparison³³ and Marlow Alternative Maps 01-02³⁴ for inclusion in the hearing record.

It appeared from the public testimony that relocation of the Hingeley Segment from the west to the east side of Hingeley Road would further impact one private parcel owed by Kenneth A. Kojo,³⁵ and that Mr. Kojo was not present at either of the hearings. The Applicants stated that they would contact Mr. Kojo to determine his position on the proposed route relocation and report his position in post-hearing comments. Thereafter, Mr. Kojo indicated that he had no objections to relocating the line to his side of Hingeley Road with the understanding that he would be able to keep any timber on his property that would have to be cut.³⁶

OTHER PUBLIC TESTIMONY

Clarence Badger expressed concern that the 15 to 20-foot pole offset being proposed for portions of the line would result in further removal of trees from his property. The Applicants stated that no pole offset was being contemplated along the segment of the line where Mr. Badger's property is located. It was therefore unlikely that more vegetation would have to be removed from his property because of pole offsets. However, because of the increase in line voltage and stricter vegetation standards, the Applicants would likely be removing some vegetation within 50 feet on each side of the transmission centerline. The Applicants agreed to consult with Mr. Badger before they removed any additional vegetation on his property.³⁷

Bob Rahja's residence is located on the north side of County Road 29; he also owns a strip of land on the south side of that road adjacent to the St. Louis River. The existing line is located on Mr. Rahja's property along the south side of County Road 29.

³¹ Tr. Vol. 1, p. 121.

³² Tr. Vol. 1, p.107.

³³ Ex.37

³⁴ Ex. 38.

³⁵ The right-of-way for Hingeley Road already created some impact on this parcel.

³⁶ Ex. 39.

³⁷ Tr. Vol. 2, pp. 29-32.

The Applicants are seeking to have an easement that extends 50 feet on each side of the transmission line, and they are currently uncertain about the extent to which the easement they are seeking would be coterminous with the existing road easement. When the Applicants are able to obtain more precise information about any additional easement needs, they will consult with Mr. Rahja about vegetation removal and other issues relating to his use of his land.³⁸

Marjorie Phibbs lives on Villa Vista Circle, north of the City of Cromwell. She indicated that two transmission lines are currently located on her property. One of those lines is the existing 69 kV line and the other is Lake Country Power's distribution line. She inquired about any changes that would affect her property. The Applicants stated that the only change would be adding a 115 kV line on the existing poles. Ms. Phibbs also inquired whether the addition of a high voltage line might result in any adverse health effects. After determining that Ms. Phibbs' home is located at least 100 feet from the existing line, the Applicants stated that her house was not close enough to the line to cause any additional concern.³⁹

Robert Jobe asked about whether the existing easements are all recorded and, if so, where. The Applicants responded that many easements are out of date and others may never have been recorded. Consequently, the Applicants plan to negotiate individually with all property owners whose land will be affected by the Project in order to obtain updated and recorded easements.⁴⁰

OTHER WRITTEN COMMENTS

On November 28, 2011, the Minnesota Pollution control Agency ("MPCA") submitted the following written comments:⁴¹

1. The Applicants must obtain a National Pollution Discharge Elimination System/State Disposal System construction Stormwater Permit from the MPCA before engaging in any land disturbing activities.
2. If wetland impacts require a permit from the U. S. Army Corps of Engineers ("Corps of Engineers"), the Applicants must also obtain a Section 401 Water Quality Certification determination from the MPCA.
3. Clearing of vegetation and soil disturbances should be limited to what only is necessary to complete the Project.
4. The Environmental Assessment did not contain adequate information about the extent to which herbicides will be used or the ways in which they will be applied.

³⁸ Tr. Vol. 2, pp. 42-47, 63-64.

³⁹ Tr. Vol. 2, pp. 59-62

⁴⁰ Tr. Vol. 2, pp. 56-58.

⁴¹ Ex. 42.

5. The MPCA commented that the term “waters of the state” is broader than the term “public waters,” as it is used by the Department of Natural Resources (“DNR”). The MPCA commented that the Environmental Assessment should clarify whether there will be any crossings of “waters of the state” that DNR has not previously identified as “public waters.”
6. The Environmental Assessment lacks detail about how the Applicants will manage water crossings to prevent sediment suspension or deposition and about the types of erosion and sediment control practices that the Applicants will be using.
7. The Environmental Assessment does not contain adequate information about whether there will be alterations to wetlands that are outside the Corps of Engineers’ jurisdiction but within the MPCA’s jurisdiction under the Wetlands Conservation Act.
8. The Applicants should develop plans for operating heavy equipment near public waters and waters of the state and for managing fuels and lubricants, including spills.

On November 29, 2011, the DNR submitted the following written comments:⁴²

1. The Environmental Assessment does not contain a plan to avoid application of herbicides near wetlands, lakes, streams, and rivers.
2. With regard to the risk of avian collision with transmission lines, it would be helpful if the Applicants were to submit to wildlife agencies maps and a narrative indicating proposed diverter locations.

No other written comments from the public were received.

Dated: December 29, 2011

s/Bruce H. Johnson
BRUCE H. JOHNSON
Administrative Law Judge

Reported: Janet Shaddix Eiling, R.P.R.
Shaddix & Associates
Two Volumes

⁴² Ex. 43.

NOTICE

This report contains a summary of public testimony. It is not a final decision. The Commission will make the final determination of this matter as set forth in Minn. R. 7850.3900.